REGISTERED No. D. 221

The Gazette of India

EXTRAORDINARY

PART II—Section 1

PUBLISHED BY AUTHORITY

No. 32] NEW DELHI, WEDNESDAY, OCTOBER 14, 1953

MINISTRY OF LAW

New Delhi, the 14th October, 1953

THE EMPLOYEES' PROVIDENT FUNDS (AMENDMENT) ORDINANCE, 1953

No. 1 OF 1953

An Ordinance to amend the Employees' Provident Funds Act, 1952.

WHEREAS a Bill to amend the Employees' Provident Funds Act has been introduced in Parliament but has not yet been passed;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action to give effect to some of the amendments proposed in the said Bill;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. Short title and commencement.—(*1*) This Ordinance may be called the Employees' Provident Funds (Amendment) Ordinance, 1953.

(*2*) It shall come into force at once.

2. Amendment of section 2, Act XIX of 1952.—In section 2 of the Employees' Provident Funds Act, 1952 (hereinafter referred to as the principal Act), after clause (*i*), the following clause shall be inserted, namely:—

"(*ia*) 'manufacture' means making, altering, ornamenting, finishing or otherwise treating or adapting any article or substance with a view to its use, sale, transport, delivery or disposal;".

3. Amendment of section 5, Act XIX of 1952.—Section 5 of the principal Act shall be renumbered as sub-section (*1*) thereof and after sub-section (*1*) as so renumbered, the following sub-section shall be inserted, namely:—

"(*2*) A Scheme framed under sub-section (*1*) may provide that any of its provisions shall take effect either prospectively or retrospectively with effect from such date as may be specified in this behalf in the Scheme."

4. Amendment of section 13, Act XIX of 1952.—In sub-section (*2*) of section 13 of the principal Act,—

(*a*) after the words "have been complied with", the following shall be inserted, namely:—

"in respect of a factory to which any Scheme applies or for the purpose of ascertaining whether the provisions of this Act or any Scheme are applicable to any factory to which the Scheme has not been applied or for the purpose of determining whether the conditions subject to which exemption was granted under section 17 are being complied with,—";

(*b*) in clause (*a*), the words "in relation to the Scheme" shall be omitted.

5. Amendment of section 14, Act XIX of 1952.—In section 14 of the principal Act, after sub-section (*2*), the following sub-section shall be inserted, namely:—

"(*2A*) Whoever contravenes or makes default in complying with any provision of this Act or of any condition subject to which exemption was granted under section 17 shall, if no other penalty is elsewhere provided by or under this Act for such contravention or non-compliance, be punishable with imprisonment which may extend to three months, or with fine which may extend to one thousand rupees, or with both."

6. Substitution of new section for section 17 in Act XIX of 1952.—For section 17 of the principal Act, the following section shall be substituted, namely:—

"17. *Power to exempt.*—(*1*) The appropriate Government may, by notification in the Official Gazette and subject to such conditions as may be specified in the notification, exempt from the operation of all or any of the provisions of any Scheme—

(*a*) any factory to which this Act applies if, in the opinion of the appropriate Government, the rules of its provident fund with respect to the rates of contribution are not less favourable than those specified in section 6 and the employees are also in enjoyment of other provident fund benefits which on the whole are not less favourable to the employees than the benefits provided under this Act or any Scheme in relation to the employees in any other factory of a similar character; or

(*b*) any factory if the employees of such factory are in enjoyment of benefits in the nature of provident fund,

pension or gratuity and the appropriate Government is of opinion that such benefits, separately or jointly, are on the whole not less favourable to such employees than the benefits provided under this Act or any Scheme in relation to employees in any other factory of a similar character.

Explanation.—The following conditions shall be deemed to be always included in the conditions which may be specified in a notification under clause (*a*), namely:—

(*i*) the amount of accumulations in the provident fund shall be invested in such manner as the Central Government may direct;

(*ii*) the amount of accumulations to the credit of an employee in the provident fund shall, where he leaves his employment and obtains re-employment in another factory to which this Act applies, be transferred, within such time as may be specified in this behalf by the Central Government, to the credit of his account in the provident fund of the factory in which he is re-employed or, as the case may be, in the Fund established under the Scheme applicable to the factory.

(*2*) Any Scheme may make provision for exemption of any person or class of persons employed in any factory to which the Scheme applies from the operation of all or any of the provisions of the Scheme, if such person or class of persons is entitled to benefits in the nature of provident fund, gratuity or old age pension and such benefits, separately or jointly, are on the whole not less favourable than the benefits provided under this Act or the Scheme:

Provided that no such exemption shall be granted in respect of a class of persons unless the appropriate Government is of opinion that the majority of persons constituting such class desire to continue to be entitled to such benefits.

(*3*) Where any person or class of persons employed in a factory is exempted from the operation of all or any of the provisions of any Scheme under sub-section (*2*), the employer in relation to such a factory—

(*a*) shall, in relation to the provident fund, old age pension and gratuity to which such person or class of persons is entitled, maintain such accounts, submit such returns, make such investments, provide for such facilities for inspection and pay such inspection charges, as the Central Government may direct; and

(*b*) shall not, at any time after the exemption, without the leave of the Central Government, reduce the total quantum of benefits in the nature of old age pension, gratuity or provident fund to which such person or class of persons was entitled at the time of the exemption."

7. Insertion of new section 19A in Act XIX of 1952.—After section 19 of the principal Act, the following section shall be inserted, namely:—

"19A. *Power to remove difficulties.*—If any difficulty arises in giving effect to the provisions of this Act, and in particular, if any doubt arises as to—

(*i*) whether a factory is engaged in any industry specified in Schedule I; or

(*ii*) whether fifty or more persons are employed in a factory; or

(*iii*) whether three years have elapsed from the establishment of a factory; or

(*iv*) whether the total quantum of benefits to which an employee is entitled has been reduced by the employer;

the Central Government may, by order, make such provision or give such direction, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for the removal of the doubt or difficulty; and the order of the Central Government, in such cases, shall be final."

8. Substitution of a new Schedule for Schedule I in Act XIX of 1952.—For Schedule I of the principal Act, the following Schedule shall be substituted, namely:—

"SCHEDULE I

[*See* sections 2(*i*) and 4]

Any industry engaged in the manufacture of any of the following:—

Cement.

Cigarettes.

Electrical, mechanical or general engineering products.

Iron and steel.

Paper.

Textiles (made wholly or in part of cotton or wool or jute or silk, whether natural or artificial).

Explanation.—In this Schedule, without prejudice to the ordinary meaning of the expressions used therein,—

(*a*) the expression 'Electrical, mechanical or general engineering products' includes—

(1) machinery and equipment for the generation, transmission, distribution or measurement of electrical energy and motors including cables and wires,

(2) telephones, telegraph and wireless communication apparatus,

(3) electric lamps (not including glass bulbs),

(4) electric fans and electrical domestic appliances,

(5) storage and dry batteries,

(6) radio receivers and sound reproducing instruments,

(7) machinery used in industry (including textile machinery) other than electrical machinery and machine tools,

(8) boilers and prime movers, including internal combustion engines, marine engines and locomotives,

(9) machine tools, that is to say, metal and wood working machinery,

(10) grinding wheels,

(11) ships,

(12) automobiles and tractors,

(13) bolts, nuts and rivets,

(14) power driven pumps,

(15) bicycles,

(16) hurricane lanterns,

(17) sewing and knitting machines,

(18) mathematical and scientific instruments,

(19) products of metal rolling and re-rolling,

(20) wires, pipes, tubes and fittings,

(21) ferrous and non-ferrous castings,

(22) safes, vaults and furniture made of iron or steel or steel alloys,

(23) cutlery and surgical instruments,

(24) drums and containers,

(25) parts and accessories of products specified in items 1 to 24;

(*b*) the expression 'Iron and Steel' includes pig iron, ingots, blooms, billets and rolled or re-rolled products into basic forms and tool and alloy steel;

(*c*) the expression 'Paper' includes pulp, paper board and straw-board;

(*d*) the expression 'Textiles' includes the products of carding, spinning, weaving, finishing and dyeing yarn and fabrics, printing, knitting and embroidering."

RAJENDRA PRASAD,

President.

K. Y. BHANDARKAR,

Secy. to the Govt. of India.

PRINTED IN INDIA BY THE MANAGER, GOVT. OF INDIA PRESS, NEW DELHI
AND PUBLISHED BY THE MANAGER OF PUBLICATIONS, DELHI. 1953